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EXAMINER

BLAKE, CAROLYN T

ART UNIT PAPER NUMBER

3724

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/763,445

Applicant(s)

POMMIER, FRANCOIS

Examiner

Carolyn T. Blake

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-80 is/are pending in the application.  
4a) Of the above claim(s) 1-22, 31-35, 38-62, 71-75 and 78-80 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 23-30, 36, 37, 63-70, 76 and 77 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of the method claims, Species A, and Species G in the reply filed on September 15, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 41-62, 71-75, and 78-80 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.
3. Claims 66, 67, and 70 do not appear to read on the election invention, and have also been withdrawn. In addition, claims 23-25, 28, 36, and 37 appear to read on the election invention and have been examined.

### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 28Cc, 209, and f. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

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notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 70b, 2Cc, S7-S17. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The disclosure is objected to because of the following informalities:

- Reference numbers "401" and "402" are used to refer to different steps, but both are referred to as the first step.
- Page 20, line 26: The word "brackets" should be changed to - - parentheses- -.
- The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's

cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Appropriate corrections are required.

***Claim Objections***

7. Claims 23-30, 36, 37, 63-70, 76, and 77 are objected to for the use of the term "installation." While "installation" generally refers to the act of setting in position or preparing for use, it appears the term is used in the claims to refer to a general device or apparatus. Appropriate correction is required.

8. Claim 63 is objected to because of the following informalities: "the skeleton" (line 21) lacks proper antecedent. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 23-30, 36, 37, 63-70, 76, and 77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 23 and 63 contain both an apparatus (lines 1-19) and the method steps of using the apparatus (lines 20-28). See MPEP 2173.05(p).

***Claim Rejections - 35 USC § 101***

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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12. Claims 23-30, 36, 37, 63-70, 76, and 77 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 23 and 63 are directed to neither a "process" nor a "machine," but rather embrace or overlap two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. See MPEP 2173.05(p).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 23, 28, 29, 36, 37, 63, 68, 69, 76, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber (5,092,829) in view of Gerber et al (3,495,492).

Regarding claims 23 and 63, Gerber ('829) discloses an installation substantially as claimed including: a cutting table (section of table 12 below the cutting tool); a cutting tool (19); a carriage (24) for moving the cutting tool (19) above the cutting table; a control unit (40) to move the cutting tool (19); at least one unloading tool (144) for automatically unloading stacks of cut-out pieces (P); an unloading tool support (141, 142) for moving the unloading tool (144) and connected (by cable 146) to the control unit (40) in order to move the unloading tool (144) adjacent to the stacks of cut-out pieces (P) to be unloaded; an unloading table (section of table 12 between the

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unloading tool) above which the unloading tool may be moved, wherein the control unit (40) is capable of: controlling the relative movement between the cutting tool (19) and the lay-up (L) in order to cut up the skeleton (S) into a plurality of portions; and controlling the movements of the unloading tool (140) in order to move the unloading tool (140) into contact with the stacks of the cut-out pieces that arrive with a lay-up on a surface of the unloading table situated downstream from the cutting table, and to take off the stacks of cut-out pieces successively from the remainder of the lay-up by moving them over the unloading table and by moving them substantially parallel to the surface of the unloading table. Gerber ('829) fails to disclose a conveyor for moving the lay-up. However, Gerber et al ('492) disclose a table adapted for conveying stacks of sheet material comprising a conveyor (such as conveyor belt 112) for moving a lay-up (14) to a cutting station. The conveyor allows for mass production by automatically moving a lay-up to the desired location. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a conveyor, as disclosed by Gerber et al ('492), on the Gerber ('829) device for the purpose of mass production.

Regarding claims 28 and 68, Gerber ('829) discloses the unloading tool (144) is mounted to move between a raised position (such as in FIG 1) and a lowered position so that the unloading tool (144) comes to bear against the top surface of a stack of cut-out pieces by being moved from its raised position to its lowered position.

Regarding claims 29 and 69, Gerber ('829) discloses the unloading tool (144) is mounted on the unloading tool support (141, 142) which moves parallel to the surface of the unloading table, the unloading tool further being mounted to rotate relative to the

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unloading tool support (141, 142) about an axis perpendicular to the surface of the unloading table.

Regarding claims 36, 37, 76, and 77, Gerber ('829) discloses the use of a bin for receiving stacks of cut-out pieces. See col. 4, lines 12-18.

15. Claims 24, 25, 64, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber ('829) in view of Gerber et al ('492) as applied to claims 23 and 63 above, and further in view of Gerber (6,308,602).

The modified device of Gerber discloses an unloading table with a plurality of orifices (44), but fails to disclose the use of a blower to support the stacks via a cushion of air. However, Gerber ('602) teaches reversing a vacuum source to blow air up through the table and reduce friction with the work surface (see col. 6, lines 5-8). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reverse the vacuum, as disclosed by Gerber ('602), on the of the modified Gerber device in order reduce friction between the work piece and work surface and easily move the work piece.

### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn T. Blake whose telephone number is (571) 272-4503. The examiner can normally be reached on Monday to Friday, 8:00 AM to 5:30 PM, alternating Fridays off.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571) 272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CB

November 30, 2005



**Allan N. Shoap**  
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